

# HOUSE BILL No. 4022

January 22, 2007, Introduced by Rep. Hildenbrand and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending section 224d (MCL 750.224d), as amended by 2006 PA 401.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 224d. (1) As used in this section and section 224, "self-  
2       defense spray or foam device" means a device to which all of the  
3       following apply:

4       (a) The device is capable of carrying, and ejects, releases,  
5       or emits 1 of the following:

6       (i) Not more than 35 grams of any combination of  
7       orthochlorobenzalmalononitrile and inert ingredients.

8       (ii) A solution containing not more than 10% oleoresin  
9       capsicum.

1 (b) The device does not eject, release, or emit any gas or  
2 substance that will temporarily or permanently disable,  
3 incapacitate, injure, or harm a person with whom the gas or  
4 substance comes in contact, other than the substance described in  
5 subdivision (a) (i) or (ii).

6 (2) Except as otherwise provided in this section, a person who  
7 uses a self-defense spray or foam device to eject, release, or emit  
8 orthochlorobenzalmalononitrile or oleoresin capsicum at another  
9 person is guilty of a misdemeanor, punishable by imprisonment for  
10 not more than 2 years, or a fine of not more than \$2,000.00, or  
11 both.

12 (3) If a person uses a self-defense spray or foam device  
13 during the commission of a crime to eject, release, or emit  
14 orthochlorobenzalmalononitrile or oleoresin capsicum or threatens  
15 to use a self-defense spray or foam device during the commission of  
16 a crime to temporarily or permanently disable another person, the  
17 judge who imposes sentence upon a conviction for that crime shall  
18 consider the defendant's use or threatened use of the self-defense  
19 spray or foam device as a reason for enhancing the sentence.

20 (4) A person shall not sell a self-defense spray or foam  
21 device to a minor. A person who violates this subsection is guilty  
22 of a misdemeanor.

23 (5) Subsection (2) does not prohibit ~~either~~ **ANY** of the  
24 following:

25 (a) The reasonable use of a self-defense spray or foam device  
26 containing not more than 10% oleoresin capsicum by a person who is  
27 employed by a county sheriff or a chief of police and who is

1 authorized in writing by the county sheriff or chief of police to  
2 carry and use a self-defense spray or foam device and has been  
3 trained in the use, effects, and risks of the device, while in  
4 performance of his or her official duties.

5 (B) THE REASONABLE USE OF A SELF-DEFENSE SPRAY OR A FOAM  
6 DEVICE CONTAINING NOT MORE THAN 10% OLEORESIN CAPSICUM BY A PRIVATE  
7 DETECTIVE OR PRIVATE INVESTIGATOR AS DEFINED IN SECTION 2 OF THE  
8 PRIVATE DETECTIVE LICENSE ACT, 1965 PA 285, MCL 338.822, OR BY A  
9 PRIVATE SECURITY GUARD AS DEFINED IN SECTION 2 OF THE PRIVATE  
10 SECURITY BUSINESS AND SECURITY ALARM ACT, 1968 PA 330, MCL  
11 338.1052, IF THE PRIVATE DETECTIVE, PRIVATE INVESTIGATOR, OR  
12 PRIVATE SECURITY GUARD SUCCESSFULLY COMPLETED A COURSE IN THE USE  
13 OF A SELF-DEFENSE SPRAY THAT WAS PROVIDED BY A PRIVATE ENTITY AND  
14 APPROVED BY THE DEPARTMENT OF LABOR AND ECONOMIC GROWTH FOR  
15 PURPOSES OF THIS SUBDIVISION.

16 (C) ~~(b)~~—The reasonable use of a self-defense spray or foam  
17 device containing not more than 2% oleoresin capsicum by a person  
18 in the protection of a person or property under circumstances ~~which~~  
19 **THAT** would justify the person's use of physical force.